

**ENVIRONMENTAL HEALTH SERVICES DEPARTMENT**

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**RESOURCE MANAGEMENT AGENCY**

**ELISSA D. LADD, ACTING RMA DIRECTOR**

Animal Control Department  
Community and Economic Development Department  
Engineering and Survey Services Department  
Environmental Health Services Department  
Planning Department  
Roads Department

**KERN COUNTY ENVIRONMENTAL HEALTH SERVICES DEPARTMENT**

In the Matter of:

Envirocycle, Inc.  
21992 Highway 33  
McKittrick, CA 93251

To: John Webb  
801 18<sup>th</sup> Street  
Bakersfield, CA 93301

**NOTICE AND ORDER**

No. 147-09-01  
SWIS No. 15-AA-0304

Date issued: August 24, 2009

Public Resources Code Sections  
45000, et seq.

**BACKGROUND:**

1. Envirocycle, located at 21992 Highway 33, McKittrick, California, is owned and operated by Envirocycle, Inc.
2. The disposal site has operated as a Nonhazardous Petroleum Contaminated Soil Operation pursuant to Title 14, California Code of Regulations, Article 5.6, Section 17360-17366 et seq.
3. The facility has an extensive inspection history with multiple documented violations since 2002. Envirocycle has operated under four Notice and Orders dated April 12, 2004, April 27, 2005, December 13, 2006, and September 2, 2008.

**PURSUANT TO PUBLIC RESOURCES CODE SECTION 45000, ET SEQ., YOU ARE ORDERED TO:**

1. By December 1, 2009, and within every 365 days thereafter, Envirocycle shall submit to the I.E.A a detailed written survey, certified by an independent licensed civil engineer, documenting the volumes of materials at the Envirocycle facility as of that date.
2. Envirocycle shall remove from the site a minimum of 6,250 tons of solid material per quarter. In addition, the following conditions must be met:

A maximum of 25,000 tons of solid material can be stored at the site, or the maximum amount of material that may be used within a 12-month period, whichever is least.

This shall be accomplished by no later than December 31, 2015. Thereafter, a maximum amount of 25,000 tons of solid material or the maximum amount that can be transferred offsite within a 12-month period, whichever is the least, may be located on the site at any one time, unless otherwise authorized by the I.E.A.



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3. No additional solid material shall be received at the site until after the facility reaches its maximum amount allowed on site. If compliance is achieved on or before December 1, 2015, the LEA may authorize the importation of additional solid waste.
4. No liquids are to be disposed at the site.
5. All existing surface impoundment sumps shall be excavated and properly abandoned, to the satisfaction of the LEA, by September 1, 2009. All storm water and free liquid runoff must be contained and properly managed to prevent further disposal of liquid wastes as approved by the LEA.
6. No liquids are to be deposited onto the ground except for reasonable dust suppression as required by the San Joaquin Valley Air Pollution Control District (SJVAPCD) protocols. Dust suppression methods, materials, and locations of application must be in accord with SJVAPCD requirements and are subject to the review and approval of the LEA.
7. All liquids and semi-liquids received at the facility shall be stored in liquid-tight, I.F.A.-approved, aboveground storage tanks. The method of transfer from off-loading trucks, including the potential use of any intermediate aboveground holding structures, shall be approved by the I.F.A.
8. All mixing of liquid and semi-liquids with solid materials shall take place on an impermeable surface approved by the LEA unless all such mixing will be conducted solely within a pug mill or other equipment designed for that purpose.
9. Envirocycle shall maintain weight and content analyses logs for all materials leaving the site. On a quarterly basis, Envirocycle shall furnish the I.F.A. with an electronic summary of operations showing amounts, characterization and sources of all materials received at the facility and the amounts, characterization and specific destination of all material exported from the site. The format and content of the summary information shall be as required by the LEA and subject to change at the discretion of the I.F.A. Quarterly reporting shall be submitted on or before: March 31, June 30, September 30 and December 31 of each year.
10. Envirocycle shall keep a weight and content analysis log for each load received at the facility. The logs shall track the incoming amount, characterization and source (including business name, address, phone number and contact name of a responsible party) of all incoming waste streams; this log shall be transcribed to an electronic format by Envirocycle and made available to the I.F.A. Incoming loads shall be randomly sampled and tested by an independent lab under a sampling program approved by the LEA; the sampling protocol is to have statistical validity. The sampling and analyses shall include tests appropriate for eliminating hazardous wastes from the facility. The results of all such testing shall be kept on site and made available to any responsible agency, with jurisdiction, upon request. A summary of the resulting tests shall be transmitted in electronic format to the I.F.A. quarterly. Quarterly reporting shall be submitted on or before: March 31, June 30, September 30 and December 31 of each year. If results of testing suggest additional protocols are necessary for receiving materials on site, those

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protocols shall be reviewed and approved by the LEA prior to implementation. Envirocycle shall immediately contact the LEA if results of any sample tested shows materials in hazardous concentrations have or may have been received at the facility.

11. The Local Enforcement Agency (LEA) shall review Envirocycle's adherence to the requirements in this agreement every January through 2016. The LEA reserves the right to unilaterally void this agreement if Envirocycle:
- Fails to remove from the site 25,000 tons (net) of solid material in the prior calendar year.
  - Fails to provide reports or any other documentation as required in this N&O.
  - Has any outstanding compliance issues with the LEA.
  - Fails to be in compliance with any applicable law, rule, or regulation within the purview of the LEA or Kern County Environmental Health Services Department (or any successor agency).

#### ASSESSMENT OF CIVIL PENALTIES

Envirocycle has been operating in violation of multiple conditions of state law and the September 2, 2008 Notice and Order. As stipulated in the Notice and Order, Envirocycle is hereby assessed the maximum monthly penalty (\$1,250) for one single violation from September 2, 2008 through September 1, 2009, which totals \$16,250. Envirocycle shall submit six (6) monthly payments of \$2,708.33 beginning on September 1, 2009, with each subsequent payment due on the first day of each month.

If all conditions within this Notice and Order are met and the facility is operating within compliance with state law, the assessed penalties will be returned in full to Envirocycle.

**PLEASE TAKE FURTHER NOTICE THAT PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 45000, 45011, 45023, AND 48023.5**, if the above actions are not completed or requirements complied with by the specified dates, the Kern County Environmental Health Services Department may:

1. Petition the Superior Court for injunctive relief to enforce this Order and to seek civil penalties not to exceed ten thousand dollars (\$10,000) for each day of violation occurring after the specified date.
2. Seek administrative civil penalties up to five thousand dollars (\$5,000) for each violation of a separate provision or, for continuing violations, for each day that violation continues, not to exceed fifteen thousand dollars (\$15,000) per violation in any one calendar year, against any person who intentionally or negligently violates any provision of this chapter or any applicable solid waste statute or regulation.
3. Contract for corrective action(s) and be reimbursed for the amount the Department expends, including but not limited to, a reasonable amount for contract administration and an amount equal to the interest that would have been earned on the expended funds.
4. Request the California Integrated Waste Management Board to expend available funds to

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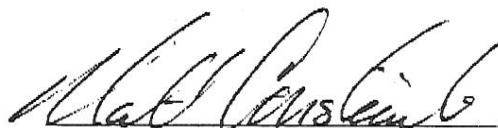
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perform any cleanup, abatement or remedial work needed to protect public health and safety or the environment pursuant to Public Resources Code, Section 48020. If the California Integrated Waste Management Board expends funds to perform any cleanup, abatement, or remedial work, the California Integrated Waste Management Board may seek repayment from responsible parties pursuant to Public Resources Code, Section 48020, et seq. Moreover, funds so expended by the California Integrated Waste Management Board constitute a lien upon the real property owned by any responsible party that is subject to the remedial action, pursuant to Public Resources Code, Section 48023.5.

Envirocycle, Inc. has the right to request a hearing to appeal this Notice and Order to the Hearing Panel, as stipulated by Public Resources Code, Section 44307.

DATED: 8/24/09



Matthew Constantine, Director  
ENVIRONMENTAL HEALTH SERVICES  
DEPARTMENT